

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

September 25, 2002

IN RE:

**PETITION OF TENNESSEE UNE-P
COALITION TO OPEN A CONTESTED
CASE PROCEEDING TO DECLARE
SWITCHING AN UNRESTRICTED
UNBUNDLED NETWORK ELEMENT**

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**DOCKET NO.
02-00207**

**ORDER GRANTING EXTENSION, SETTING A RESPONSE DATE,
AND RELIEVING PARTIES OF A FILING REQUIREMENT**

This docket came before the Pre-Hearing Officer, Director Ron Jones, for consideration of the *Petition to Reconsider and Request for Additional Time to Respond to Data Requests* filed on September 24, 2002 by XO Tennessee, Inc.

XO Tennessee, Inc. requests that the Pre-Hearing Officer extend the time for filing responses to data requests sent by the Tennessee Regulatory Authority staff to XO Tennessee, Inc. on September 18, 2002. Responses to the requests are due on September 25, 2002. XO Tennessee, Inc. requests an extension until October 2, 2002. In support of its request, XO Tennessee, Inc. contends that it did not receive the requests until September 23, 2002 and requires more than two days to gather the information. The Pre-Hearing Officer finds that good cause exists for the requested extension.

In addition to granting XO Tennessee, Inc. an extension, the Pre-Hearing Officer finds that all entities receiving the September 18, 2002 data requests should receive additional time to

respond.¹ Given the facts that the representative of XO Tennessee, Inc. is located in Nashville and received the requests on September 23, 2002 and that the other requests were sent to company representatives outside Tennessee, it is possible that those other company representatives did not receive the requests prior to September 23, 2002 and, therefore, may also require additional time to respond. The due date for all entities to respond will be determined at the October 2, 2002 status conference.

In its filing, XO Tennessee, Inc. also petitions the Pre-Hearing Officer to reconsider his decision requiring entities responding to the data requests to file their responses in accordance with the procedure set forth in the *Initial Order Resolving Discovery Disputes* filed on June 28, 2002.² Any party that wishes to respond to this petition shall do so no later than October 1, 2002 at 12:00 p.m. The grounds for the petition for reconsideration and responses thereto will be discussed at the status conference scheduled for October 2, 2002.

The Pre-Hearing Officer also finds that the parties should be relieved of the directive in the September 13, 2002 *Order Denying Motion to Hold Proceeding in Abeyance and Granting Motion for Reconsideration or Clarification* to file on September 30, 2002 agreed dates for the filing of rebuttal testimony and the hearing. It will be difficult to determine and agree to future dates without now knowing when the responses to the September 18th data requests will be due.

IT IS THEREFORE ORDERED THAT:

1. The request for additional time to respond to data requests filed on September 24, 2002 by XO Tennessee, Inc. is granted. A due date for the filing of responses to the data

¹ The other entities receiving the September 18, 2002 data requests were Network Telephone, Business Telecom, Inc., Adelphia Business Solutions, Inc., and XO Tennessee, Inc.

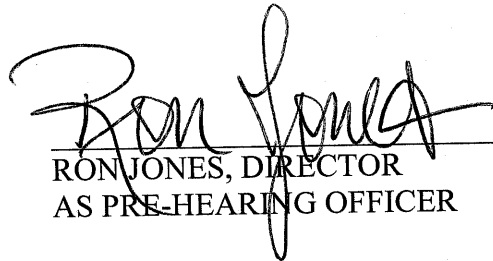
² At this time former Director Melvin J. Malone was acting as Pre-Hearing Officer. Director Malone's term as a director of the Tennessee Regulatory Authority expired on June 30, 2002.

requests will be determined at the status conference currently scheduled for Wednesday, October 2, 2002 at 9:00 a.m.

2. Any party choosing to respond to XO Tennessee Inc.'s petition to reconsider shall do so by **Tuesday, October 1, 2002 at 12:00 p.m.**

3. The parties are relieved of the directive in the September 13, 2002 *Order Denying Motion to Hold Proceeding in Abeyance and Granting Motion for Reconsideration or Clarification* to file on September 30, 2002 agreed dates for the filing of rebuttal testimony and the hearing. Dates for the filing of rebuttal testimony and the hearing will be determined at the status conference currently scheduled for Wednesday, October 2, 2002 at 9:00 a.m.

4. This Order shall be sent to all parties as well as Network Telephone, Business Telecom, Inc., Adelphia Business Solutions, Inc., and XO Tennessee, Inc. Representatives of Network Telephone, Business Telecom, Inc., Adelphia Business Solutions, Inc., and XO Tennessee, Inc. are encouraged to participate in the status conference currently scheduled for Wednesday, October 2, 2002 at 9:00 a.m.


RONJONES, DIRECTOR
AS PRE-HEARING OFFICER